



## EXCLUSIVE RIGHT TO SELL CONTRACT

PLAIN ENGLISH FORM APPROVED BY THE ELMIRA-CORNING REGIONAL BOARD OF REALTORS, INC. FOR USE BY ITS MEMBERS. THIS IS A LEGAL DOCUMENT; SIGNING THIS AGREEMENT GIVES RISE TO BINDING LEGAL RESPONSIBILITIES. IF NOT UNDERSTOOD, WE RECOMMEND YOU SEEK LEGAL ADVICE BEFORE SIGNING.



PROPERTY MAILING ADDRESS 6880 BOOT JACK HOLLOW RD STATE NY ZIP 14810  
 IN TOWN/VILLAGE OF BATH TAXMAP# 161.00-01-007.220  
 OWNER(S) DOUGLAS LUSTIG, BK TRUSTEE FOR THE ESTATE OF FLOYD AND  
 SELLER(S) if different than OWNER(S): EVELYN BUCKLEY

**1. LISTING FORM.** This form is to be used exclusively by ECBOR members or by other agents authorized under reciprocal agreements with ECBOR members for placing property listings in ECBORMLS.

**2. GRANT OF EXCLUSIVE RIGHT TO SELL/TERM OF LISTING.** In consideration of N/A (hereinafter referred to as BROKER) submitting the above described property (the "Property") to the multiple listing service (hereinafter "ECBORMLS") of the Elmira-Corning Regional Board of REALTORS®, Inc. (hereinafter referred to as "ECBOR") and in further consideration of said BROKER undertaking to find a purchaser for the Property, the undersigned SELLER (the word SELLER refers to each and all parties who have an ownership interest in the Property) hereby grants to said BROKER, the exclusive right to sell the Property for \$ 87,900 from \_\_\_\_\_ until midnight on \_\_\_\_\_. The SELLER hereby authorizes the BROKER to submit this listing to the ECBORMLS within 3 business days following the signing of this Exclusive Right to Sell Contract and to make an offer of cooperation and compensation to all ECBORMLS members and to any other cooperating agent authorized under law to receive a commission with whom BROKER deems it appropriate to cooperate with in the SELLER's best interest, as set forth in paragraphs 14, 15, 16 and/or 17 below. SELLER certifies that he/she owns the property or has the legal power to sell, exchange or lease the Property.

**3. AGENCY DISCLOSURE.** SELLER has read, signed, and received a copy of the agency relationship disclosure form as required by New York State Law. SELLER acknowledges that the BROKER has disclosed to and discussed with SELLER the possibility that other potential sellers have listed or may list their property with or have entered into or may enter into similar agency agreements with BROKER which may involve the sale or lease of property similar to the SELLER's Property and SELLER hereby consents to same. N/A Initials

**4. HOME EQUITY THEFT PREVENTION ACT.** SELLER acknowledges and represents that OWNER and/or the Property are not the subject of a foreclosure action (through the filing of a Lis Pendens) or property/school tax proceeding (including but not limited to the Property appearing on an active property tax lien sale list) and OWNER is not in default (being two or more months in arrears of any mortgage payment due on the Property) at the time of execution of this agreement. Furthermore, SELLER further acknowledges that SELLER will notify BROKER immediately if OWNER and/or the Property become the subject of a foreclosure action or property/school tax proceeding or if OWNER is in default (being two or more months in arrears of any mortgage payment on the Property) during the term of this agreement and any extensions thereof. SELLER consents to the BROKER disclosing such information to potential purchasers in order to comply with the requirements of the Home Equity Theft Prevention Act (Real Property Law Sec. 265-a).

**5. FAIR HOUSING.** It is agreed that the Property is listed in full compliance with local, state and federal fair housing laws against discrimination on the basis of race, color, religion, sex, national origin, handicap, age, marital status, children, sexual orientation, military status or any other prohibited factors.

**6. SELLER'S AUTHORIZATIONS AND OBLIGATIONS.** SELLER understands that in order to facilitate the sale of the Property, the SELLER hereby:

- A. Grants the BROKER exclusive "FOR SALE" and "SOLD" sign privileges on the Property. ☐ Yes ☐ No
- B. Consents that the Property may be shown as per showing instructions.
- C. Agrees to refer any and all inquiries concerning the Property to BROKER, and
- D. Authorizes the use of a lockbox ☐ Yes, ☐ No, ☐ Not applicable. The SELLER understands that providing the BROKER with a key and/or lockbox to the Property does not in any way make the BROKER the custodian of the Property or responsible therefore.
- E. Authorizes the BROKER to make and use ☐ exterior only, ☐ exterior and interior, photographs of the Property.
- F. Agrees that the BROKER may provide ECBORMLS with information about the Property. The selling price will be published to ECBORMLS participants only upon final sale of the Property.
- G. Grants to the BROKER full discretion to determine the appropriate marketing approach for the Property. Unless SELLER delivers to BROKER a written certification, in a form acceptable to BROKER that SELLER does not

desire the Listing Content to be disseminated by a multiple listing service, **SELLER** acknowledges and agrees that all photographs, images, graphics, video recordings, virtual tours, drawings, written descriptions, remarks, narratives, pricing information and other copyrightable elements relating to the Property provided by **SELLER** to **BROKER** or **BROKER's** Agent in connection with this agreement (the Seller Listing Content), or otherwise obtained or produced by **BROKER** or **BROKER's** Agent in connection with this agreement (the Broker Listing Content), and any changes to the Seller Listing Content or the Broker Listing Content, may be filed with one or more multiple listing services, included in the compilations of listings and otherwise distributed, publicly displayed and reproduced. **SELLER** hereby grants to **BROKER** a non-exclusive, irrevocable, worldwide, royalty free license to use, sublicense through multiple tiers, publish, display and reproduce the Seller Listing Content, to prepare derivative works of the Seller Listing Content, and to distribute the Seller Listing Content or any derivative works thereof. **SELLER** represents and warrants to **BROKER** that the Seller Listing Content, and the license granted to **BROKER** for the Seller Listing Content, does not violate or infringe upon the rights, including any copyrights, of any person or entity. **SELLER** acknowledges and agrees that as between **SELLER** and **BROKER**, all Broker Listing Content is owned exclusively by **BROKER**, and **SELLER** has no right, title or interest in or to any Broker Listing Content.

H. Consents to one of the following regarding the Sellers Property Condition Disclosure Statement:

- ☐ (a) Seller has provided Broker with attached Sellers Property Condition Disclosure Statement.  
☐ (b) Seller has not provided Broker with the Sellers Property Condition Disclosure Statement and Seller shall credit Buyer \$500 at closing in lieu of.  
☐ (c) Is not applicable.

7. **BROKER'S OBLIGATIONS.** In accordance with the provisions of this agreement, the **BROKER** will:

- Undertake to find a purchaser for the Property upon terms and conditions acceptable to the **SELLER**;
- Provide the **SELLER** with current market data of the value of comparative properties;
- Report to the **SELLER** regarding marketing activity;
- Assist in preparing a purchase offer with an attorney approval clause;
- Follow up with purchaser and/or purchaser's designee once a contract is negotiated; and
- Update the **SELLER** regarding fulfillment of contract contingencies.

8. **SUBMISSION OF OFFERS TO PURCHASE.** **SELLER** agrees that any offers to purchase, exchange, or lease the Property shall be submitted through the ☐ Listing Broker ☐ Selling Broker.

9. **BOARD AND MULTIPLE LISTING SERVICE NOT AGENTS.** The **SELLER** understands and agrees that ECBOR and ECBORMLS are not the **SELLER's** agents and that none of the terms of this agreement shall make either of them the **SELLER's** agents.

10. **RENTAL OF PROPERTY.** Should the **SELLER** rent the Property during the period of this agreement and the lessee purchases the Property during the term of the lease or any renewal or extension thereof, the **SELLER** agrees to pay to **BROKER** the brokerage fee set forth herein.

11. **COMMISSION AMOUNTS.** **SELLER** acknowledges and understands that neither ECBOR nor ECBORMLS engages in any agreement or activity which recommends, fixes, suggests, controls, or maintains any commissions or commission divisions related to the sale of listed property. Commissions or fees for real estate services to be provided herein are negotiable between **SELLER** and **BROKER**.

12. **BROKERAGE FEE: WHEN DUE AND PAYABLE.** **SELLER** agrees that the brokerage fee will be due and payable to **BROKER**:

- if, prior to the expiration of this listing contract, a purchaser for the Property, or an agreement to exchange the Property, is secured by the **SELLER** or by any other person at the sales price and terms contained in this contract or for any other sales price and terms acceptable to **SELLER**, or
- if, after the expiration date of the listing contract or any extensions thereof and during the \_\_\_\_\_ months thereafter, a person buys or exchanges the Property directly from the **SELLER** who was physically shown and brought onto the Property by a licensed real estate agent during the term of this listing. However, the **SELLER** shall not be obligated to pay such compensation if a valid listing agreement is entered into during the term of said protection period with another licensed **BROKER** and a sale, lease or exchange of the Property is made during the term of the protection period.

13. **AMOUNT OF BROKERAGE FEE.** In utilizing sub-agency, buyer agency and/or broker's agency **SELLER** will not be liable for more than one (1) commission

- SELLER** agrees that the brokerage fee will be 10 % of the ☐ gross ☐ net\* selling price, or \$ \_\_\_\_\_.
- The commission offered by **BROKER** to subagents shall be 2 % of the ☐ gross ☐ net\* selling price, or \$ \_\_\_\_\_.
- The commission offered by **BROKER** to buyers' agents shall be 2 % of the ☐ gross ☐ net\* selling price, or \$ \_\_\_\_\_.
- The commission offered by **BROKER** to broker's agents shall be 2 % of the ☐ gross ☐ net\* selling price, or \$ \_\_\_\_\_.

\*Net selling price is defined as gross selling price minus seller concessions. "Seller concessions" are defined as seller-paid buyer mortgage expenses which may only include: loan origination or discount fees, mortgage application fee, mortgage tax, deed and mortgage recording fees, mortgage title insurance premium, appraisal fee, credit report and lender's attorney's fee, pre-payables and escrow. This does not apply to a repair credit given by seller to buyer in satisfaction of the property inspection contingency.

14. **SUBAGENCY.** SELLER ☐ does ☐ does not authorize BROKER to make an offer of subagency to all ECBORMLS participants. SELLER understands and is aware that SELLER could be liable for the misrepresentations, if any, of agents and subagents. If SELLER incurs a loss as a result of misrepresentations of an agent and/or subagent SELLER may be entitled to bring legal action against the responsible agent and subagent for reimbursement of such loss.

15. **BUYER AGENCY.** SELLER ☐ does ☐ does not authorize BROKER to cooperate with agents who represent buyers with the understanding that such buyers' agents will be representing only the interests of the prospective buyers.

16. **BROKER'S AGENCY.** SELLER ☐ does ☐ does not authorize BROKER to engage Broker's Agents to assist the BROKER in selling the Property by locating a purchaser. SELLER acknowledges that they have no direct relationship with such broker's agents and, therefore, cannot provide instruction to the broker's agents. As a result, the SELLER may not be liable for the acts or omissions of such broker's agents. The listing BROKER may be responsible for the acts or omissions of the broker's agent.

17. **COOPERATION WITH AGENTS WHO ARE NOT PARTICIPANTS IN ECBORMLS.** SELLER ☐ does ☐ does not authorize the BROKER to cooperate with and compensate agents who are not participants in ECBORMLS in the amounts set forth in paragraph 13 above and pursuant to the same relationships authorized in paragraphs 14 (subagency), 15 (Buyer Agency) and/or 16 (Broker's Agency) above.

18. **SUBSEQUENT PURCHASE OFFERS.** Upon SELLER's acceptance of a purchase offer that does not stipulate that the Property is to remain on the market, Broker is directed to:

- (A) ☐ Continue to show the Property for sale and to submit any subsequent offers to SELLER.  
(B) ☐ Other \_\_\_\_\_

**SELLER SHOULD CONSULT AN ATTORNEY REGARDING ANY SUBSEQUENT OFFERS BECAUSE A BINDING CONTRACT FOR THE PROPERTY MAY ALREADY EXIST AND BROKERAGE COMMISSION CLAIMS MAY BE INVOLVED. BROKER IS OBLIGATED TO FOLLOW MLS RULES REGARDING REPORTING OF STATUS.**

19. **TERMINATION.** SELLER understands that if they terminate the BROKER'S authority to act as the SELLER's agent prior to the expiration of the term of this agreement, the BROKER shall retain its contract rights to a commission and recovery of expenses and any other damages incurred by reason of SELLER's early termination of this agreement.

20. **TAXABLE EVENT.** No representation is made by the BROKER of the taxable event of this sale or exchange. The SELLER is recommended to contact a competent tax adviser.

21. **INTEREST.** If the total commission is not paid when due, interest will be charged and accrue at \_\_\_\_\_% per month on the unpaid balance of the commission until paid.

22. **ATTORNEYS FEES.** In any action, proceeding or arbitration arising out of this contract, the prevailing party shall be entitled to reasonable attorneys' fees and costs.

23. **INFORMATION ABOUT THE PROPERTY.** SELLER warrants and represents that all information about the Property which SELLER has given to BROKER is accurate, complete and not misleading in any material respect, and BROKER assumes no responsibility to SELLER or anyone else for the accuracy of such information. BROKER will use sources of information BROKER believes to be reliable, but is not responsible for the accuracy of the information BROKER obtains. SELLER authorizes BROKER to disclose to prospective purchasers and any other persons interested in the Property, including other brokers, any information about the Property BROKER obtains from SELLER or any other source. SELLER understands that New York law requires SELLER to give certain information about heating and insulation to prospective purchasers if they ask for it in writing before a purchase contract is signed. Indicate which of the following is/are applicable; copy(s) must be maintained in listing file.

- ☐ Agency Disclosure  
☐ Sellers Disclosure to Buyer  
☐ Lead Based Paint Disclosure  
☐ Oil, Gas, Mineral, Timber Rights Disclosure  
☐ Property Condition Disclosure [As referenced in 6(h) of this contract]  
☒ Other: This listing agreement and any sale of the property

is subject to and conditioned upon approval by the  
United States Bankruptcy Court

**24. RENEWAL AND MODIFICATION OF CONTRACT.** SELLER may extend the term of this contract by signing a renewal agreement. If SELLER renews this contract, the BROKER will promptly notify ECBORMLS of the renewal. All changes or modifications of the provisions of this contract must be made in writing and signed by SELLER and BROKER.

**25. EXPLANATION OF TYPES OF LISTINGS AND ACKNOWLEDGEMENT OF EXPLANATION:**

- a. An "Exclusive Right to Sell" listing means that if you, the seller of the property, find a buyer for your house, or if another broker finds a buyer, you must pay the agreed commission to the present broker.
- b. An "Exclusive Agency" listing means that if you, the seller of the property, find a buyer, you will not have to pay a commission to the broker. However, if another broker finds a buyer, you will owe a commission to both the selling broker and your present broker.

**ACKNOWLEDGEMENT:**

SELLER has read and understands the definitions of "exclusive right to sell" and "exclusive agency" as set forth in 19 N.Y.C.R.R. 175.24 SELLER understands that this contract grants to the BROKER the exclusive right to sell the Property.

SELLER ACKNOWLEDGEMENT OF ABOVE (Par. 25)

SELLER ACKNOWLEDGEMENT OF ABOVE (Par. 25)

**26. ENTIRE AGREEMENT**

The SELLER has read and understands this agreement and does hereby acknowledge receipt of a copy thereof. This agreement contains the entire agreement between the SELLER and the BROKER. At the time of signing this listing agreement, SELLER represents that there is no other listing or lease agreement affecting the subject property and, should the SELLER execute a lease or other encumbrance with respect to the Property, SELLER will notify the Broker immediately. This agreement shall be binding upon the parties hereto, their heirs, legal representatives, successors and assigns. Each person or entity having an ownership interest in the Property must sign this contract as SELLER. Each person is fully responsible for keeping the promises made by SELLER.

Dated: \_\_\_\_\_ Seller \_\_\_\_\_

Dated: \_\_\_\_\_ Seller \_\_\_\_\_

Dated: 1/28/2019 Listing Salesperson Bonnie L. Winters

Listing Broker RICHARD WINTERS REAL ESTATE

**ADMINISTRATIVE INFORMATION**

Agent: \_\_\_\_\_ Seller(s): \_\_\_\_\_

Agent Phone(s): \_\_\_\_\_ Seller(s): \_\_\_\_\_

Email: \_\_\_\_\_ Address: \_\_\_\_\_

Broker: \_\_\_\_\_ Zip: \_\_\_\_\_

Address: \_\_\_\_\_ Phone (H): \_\_\_\_\_ (W): \_\_\_\_\_

\_\_\_\_\_ Zip: \_\_\_\_\_ Cell Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

Office Phone: \_\_\_\_\_ Fax: \_\_\_\_\_ Email: \_\_\_\_\_